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DARBY & DARBY P.C.			TAYLOR, BARRY W	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/597,557	REISSMUELLER ET AL.
	Examiner	Art Unit
	Barry W. Taylor	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 July 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 18-44 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 18-44 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 July 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Objections

1. Claim 21 is objected to because of the following informalities: Claim 21 last line reads “speech or text input₁” which should read as “speech or text input.”. Appropriate correction is required.

Claim 27 is objected to because of the following informalities: Claim 27 last line reads “representatives₁;” which should read as “representatives.”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18-25 and 27-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Blattner et al (2009/0158184 hereinafter Blattner).

Regarding claim 18. Blattner teaches a method of telecommunication (see mobile phone in paragraphs 0033, 0045, 0149, 0150) between a first user and a second user over a telecommunications network, the method comprising:

providing a first connection between the first user and a telecommunications network via a first terminal (paragraphs 0003, 0033, 0045, 0149, 0150);

providing a second connection between the second user and the telecommunications network via a second terminal (paragraphs 0003, 0033, 0045, 0149, 0150);

allocating a first virtual representative to the first user and a second virtual representative to the second user (see avatar's paragraphs 0005-008, 0026-0029, 0036-0042, 0048-0052, 0055, 0060, 0068-0069, 0073, 0080-0081, 0083-0085, 0089, 0094, see drag-and-drop an avatar in paragraph 0103, 0105, see emoticons in paragraph 0111, 0122, 0125-0128, 0136-0141, 0146, 0159, 0162-0163, 0183);

presenting the first and second virtual representatives on the first terminal and on the second terminal (see avatar's paragraphs 0005-008, 0026-0029, 0036-0042, 0048-0052, 0055, 0060, 0068-0069, 0073, 0080-0081, 0083-0085, 0089, 0094, see drag-and-drop an avatar in paragraph 0103, 0105, see emoticons in paragraph 0111, 0122, 0125-0128, 0136-0141, 0146, 0159, 0162-0163, 0183);

transferring information from the first user to the second user and vice versa by an animation of at least one of the first and second representatives and by an interaction between the first and second representatives, wherein at least one of the animation and the interaction takes place in response to a drag & drop command of a user, and wherein an animation of the first virtual representative takes place in response to a command of the first user and an animation of the second virtual representative takes place in response to a command of the second user (abstract, see avatar's

paragraphs 0005-008, 0026-0029, 0036-0042, 0048-0052, 0055, 0060, 0068-0069, 0073, 0080-0081, 0083-0085, 0089, 0094, see **drag-and-drop** an avatar in paragraph 0103, 0105, see emoticons in paragraph 0111, 0122, 0125-0128, 0136-0141, 0146, 0159, 0162-0163, 0183).

Regarding claim 19. Blattner teaches wherein the animation and/or interaction is presented simultaneously, parallel and in real time on the first and second terminals (paragraphs 0027, 0029, 0073, 0075, 0112-0113, 0120).

Regarding claim 20. Blattner teaches at least one of: directly interrupting an ongoing animation or interaction in response to a new user command to carry out a desired animation or interaction; concluding an ongoing animation or interaction and presenting a desired animation or interaction in response to a user command to carry out the desired animation or interaction; placing a desired animation or interaction in a waiting list of respective animations or interactions to be carried out in response to a user command to carry out the desired animation or interaction; and interrupting a first animation or interaction triggered by the first user and replacement of the first animation or interaction by a second animation or interaction triggered by the second user and vice versa (paragraphs 0036-0043, 0045-0046, 0048-0052, 0055, 0060, 0063, 0068-0069, 0072-0075, 0080, 0083, 0089, 0103, 0111-0113, 0120, 0121, 0125, 0127, 0136-0139, 0143, 0146).

Regarding claim 21. Blattner teaches recognizing at least one of a speech and a text input by the first or second user into the respective one of the first and second

terminals; analyzing and interpreting the speech or text input (paragraphs 0036-0039, 0051, 0054, 0057-0059, 0068-0070, 0072, 0074, 0080, 0111, 0139).

Regarding claim 22. Blattner teaches performing a video recognition of at least one of the first and second user's facial expression; and analyzing and interpreting the facial expression (paragraphs 0036-0039, 0051, 0054, 0057-0059, 0068-0070, 0072, 0074, 0080, 0111, **0139, 0001**)..

Regarding claim 23. Blattner teaches providing a plurality of suitable animation or interaction possibilities in tune with a sense of at least one of the speech input, the text input and the facial expression (paragraphs 0036-0039, 0051, 0054, 0057-0059, 0068-0070, 0072, 0074, 0080, 0111, 0139).

Regarding claim 24. Blattner teaches animating at least one of the first representative, the second representative and an interaction between the first and second representatives in tune with a sense of at least one of the speech input, the text input and the facial expression (paragraphs 0036-0039, 0051, 0054, 0057-0059, 0068-0070, 0072, 0074, 0080, 0111, 0139).

Regarding claim 25. Blattner teaches presenting animation and interaction possibilities of the first and second representatives in a tabular overview, wherein the tabular overview has a fixed number of classes in which the animation and interaction possibilities are collected and can be retrieved (paragraphs 0029, 0040, 0055, 0060, 0063, 0081, 0093, 0094, 0097, 0104-0106, 0108, 0110-0111, 0119, 0122, 0123, 0125-0127, 0159, 0162).

Regarding claim 27. Blattner teaches presenting a mood display on a respective one of the first and second terminals indicating a current respective mood of one of the first and second representatives (paragraphs 0042, 0050-0051, 0058, 0060, 0068, 0083, 0085, 0112-0113, 0122, 0127, 0136-0137, 0139-0140, 0146).

Regarding claim 28. Blattner teaches animating the representative as a reaction to a modification of the mood display (paragraphs 0005-0008, 0036-0038, 0041-0042, 0046, 0050).

Regarding Claim 29. Blattner teaches wherein the presentation of the first and second representatives at the first terminal is one of a mirror image and an inverted mirror image of the presentation of the first and second representative at the second terminal (paragraphs 0027, 0029, 0042).

Regarding claim 30. Blattner teaches wherein at least one of the animation of the first or second representative and the interaction between the first and second representatives takes place depending on predeterminable criteria (paragraphs 0036-0043, 0045-0046, 0048-0052, 0055, 0060, 0063, 0068-0069, 0072-0075, 0080, 0083, 0089, 0103, 0111-0113, 0120, 0121, 0125, 0127, 0136-0139, 0143, 0146).

Regarding claim 31. Blattner teaches wherein the criteria are stored in a user profile allocated to at least one of the first and second users (paragraphs 0060, 0111, 0113, 0122, 0125, 0127, 0141, 0147, 0159-0160, 0162-0165, 0167-0172, 0174, 0176, 0179).

Regarding claim 32. Blattner teaches providing a selection of animations and/or interactions to be transferred to at least one of the first and second two users

(paragraphs 0027, 0050, 0052, 0055, 0060, 0063, 0081, 0083-0084, 0089, 0094, 0096, 0103, 0105-0106, 0108, 0111, 0113, 0118-0124, 0127, 0134, 0182).

Regarding claim 33. Blattner teaches proposing the selection to be transferred to predeterminable criteria stored in a user profile allocated to at least one of the first and second users (paragraphs 0040, 0060, 0063, 0081, 0103, 0104-0113, 0119, 0121-0122, 0125, 0127, 0130, 0134, 0141, 0147, 0159-0160, 0162-0165, 0167-0172, 0174, 0176, 0179).

Regarding claim 34. Blattner teaches the predeterminable criteria include details about at least one of the first and second users (paragraphs 0040, 0060, 0063, 0081, 0103, 0104-0113, 0119, 0121-0122, 0125, 0127, 0134, 0141, 0147, 0159-0160, 0162-0165, 0167-0172, 0174, 0176, 0179).

Regarding claim 35. Blattner teaches wherein the details include information relating to at least one of a gender, age, nationality, mother tongue, speech habit, speech pattern, place of residence, interest and hobby (paragraphs 0048, 0050, 0085, 0088, 0094, 0105, 0110, 0111, 0113, 0118, 0125, 0136, 0139).

Regarding claim 36. Blattner teaches wherein the drag & drop command relates to the at least one of the first and second representative, and wherein the animation or interaction takes place depending on which of the two representatives the drag & drop command relates to (paragraph 0103).

Regarding claim 37. Blattner teaches wherein the recognition of the speech or text input or the video recognition takes place according to predeterminable criteria stored in a user profile allocated to at least one of the first and second users

(paragraphs 0036-0039, 0051, 0054, 0057-0059, 0068-0070, 0072, 0074, 0080, 0111, 0139).

Regarding claim 38. Blattner teaches wherein the predeterminable criteria comprise details about at least one of the first and second users (paragraphs 0036-0039, 0051, 0054, 0057-0059, 0068-0070, 0072, 0074, 0080, 0111, 0139).

Regarding claim 39. Blattner teaches wherein the details include information relating to at least one of a gender, age, nationality, mother tongue, speech habit, speech pattern, place of residence, interest and hobby (paragraphs 0048, 0050, 0085, 0088, 0094, 0105, 0110, 0111, 0113, 0118, 0125, 0136, 0139).

Regarding claim 40. Blattner teaches wherein the and/or the interaction depends on the mood display, wherein the mood display displays a current prevailing emotional mood of at least one of the first and second users (paragraphs 0042, 0050-0051, 0058, 0060, 0068, 0083, 0085, 0112-0113, 0122, 0127, 0136-0137, 0139-0140, 0146).

Regarding claim 41. Blattner teaches wherein the mood display for at least one of the first and second users displays a respective current prevailing emotional mood, and wherein further comprising modifying the mood display according to a transferred emotion and/or interaction (paragraphs 0042, 0050-0051, 0058, 0060, 0068, 0083, 0085, 0112-0113, 0122, 0127, 0136-0137, 0139-0140, 0146).

Regarding claim 42. Blattner teaches wherein the selection is provided according to a mood display which, for at least one of the first and second users, displays a current prevailing emotional mood of the respective user (paragraphs 0042,

0050-0051, 0058, 0060, 0068, 0083, 0085, 0112-0113, 0122, 0127, 0136-0137, 0139-0140, 0146).

Regarding claim 43. Blattner teaches wherein the selection is provided in a form of assembled groups and/or classes, at least one of the assembly of the classes and the selection of the animations and/or interactions is automatic and pseudo-randomly controlled (paragraphs 0027, 0034-0042, 0051, 0059, 0063, 0068-0069, 0075, 0080, 0085, 0105, 0112-0113, 0118-0119, 0121-0122, 0125, 0127-0128, 0130-0131, 0152, 0183).

Regarding claim 44. Blattner teaches a system of carrying out the method (paragraphs (0009, 0014, 0025, 0044, 0055, 0068, 0072-0074, 0081, 0084, 0096, 0101, 0105, 0112, 0126, 0136-0137, 0141, 0148-0178, 0185).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blattner et al (2009/0158184 hereinafter Blattner) in view of Walter et al (2005/0156873 hereinafter Walter).

Regarding claim 26. Blattner does not explicitly show providing a drawing function so as to enable a real-time transfer of a drawing by at least one of the first and second users on a respective one of the first and second terminals to the other one of the first and second users on the other one of the first and second terminals.

Walter teaches methods and devices for creating and transferring custom emoticons (abstract, paragraphs 0002, 0016-0017, 0019-0021, 0023). Walter teaches a user can create a custom emoticon by downloading and/or editing an image, or by using a photography or **drawing application** to create an image or the custom emoticon from scratch (paragraph 0024). Walter teaches mapping text message to the emoticon and optionally, a nickname (paragraphs 0030-0035, 0039-0040, 0049, 0053). Walter even provides for a list of custom emoticons to be selected (paragraph 0050).

It would have been obvious for anyone of ordinary skill in the art at the time of invention to modify the teachings of Blattner to include the drawing application as taught by Walter in order to provide a means for the user to create an avatar from scratch.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

---(2005/0054381) Lee et al teaches emotion generator to change avatar to reflect prevailing mood (paragraph 0220) and to provide reactions and communications in response to emotions (abstract, paragraphs 0026, 0030, 0094, 0234)

---(2005/0114254) Condie teaches drag-and-drop emoticons into messages (paragraphs 0051-0052).

---(2002/0054094) Matsuda teaches dragging and dropping avatar's (abstract, paragraph 0118).

---(6,493,001) Takagi teaches dragging and dropping avatar selected from those displayed (abstract).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Thursday, 6:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kent Chang, can be reached at (571) 272-7667. The central facsimile phone number for this group is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Centralized Delivery Policy: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the central fax number (**571-273-8300**).

/Barry W Taylor/

Primary Examiner, Art Unit 2617

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